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AMERICAN INFLUENCE ON CANADIAN NATIONHOOD

By CARL GEORGE WINTER

Americans generally recognize that Canada is no longer a British colony, but few realize the influence of the United States in helping Canada attain nationhood.

At the turn of the century, Canada was in a curious position with respect to sovereignty. As Sir Wilfrid Laurier in 1897 expressed it, "A colony, yet a nation—words never before in the history of the world associated together."¹ Internally, she was a nation with all the powers that sovereignty implies; externally, she was only a colony since all foreign relations were carried on by the diplomatic machinery of the British Government. This study deals primarily with the impetus given by the United States in helping the Dominion achieve autonomy in both internal and external affairs.

Canada's southern neighbor has always played a major role in the self-assertion of the Dominion, sometimes hindering but generally furthering her expressions of sovereignty. Fear of conquest or invasion by the United States gave impetus to the formation of the Dominion in the nineteenth century but the friendliness and willingness of the Republic to adjudicate common problems peaceably caused still further advances in sovereignty until Canada became completely autonomous by the time of the second World War.

The Alaska Boundary Dispute

Sir Wilfrid Laurier became Canada's Prime Minister with the victory of the Liberal Party in the election of 1896. Two years later the Joint High Commission was created by the United States and Canada to try to solve amicably some twelve questions which were at issue between them. The Joint High Commission met for almost seven months ending on February 20, 1899. Tentative agreements were reached on some issues but the entire discussion foundered upon the problem of the Alaska Boundary. No agreement was reached on this issue and since the Canadians had insisted that all items on the agenda would stand or fall together, no formal agreement was reached on any item.*

In 1903 the Alaska Boundary decision was turned over to a panel of six judges, three from the United States, two from Canada and one from Great Britain. The controversy had two main points: (1) Was

the boundary to be parallel to the headlands of the coast as the British argued or was it to follow in general the trend of the headwaters of the many inlets as the Americans contended? (2) Did the ship channel (and boundary) run north or south of four islands in the Portland Channel? In the first question the British line would place the heads of many long inlets in Canadian territory giving Canada access to the sea through the Alaskan panhandle. The American contention would place all the inlets within American jurisdiction and allow no Canadian access to the sea in the area. The British Judge, Baron Alverstone, Lord Chief Justice of England, agreed with the three American Judges that the American point of view was correct. His decision was contrary to Canadian expectations. This was undoubtedly the true interpretation for the strip of territory forming the Alaska Panhandle on the mainland was designed by the Russians to protect their bases on the islands off the coast. It is improbable that they would have designated a line which would have allowed the British to establish a port of entry so they could cut across Russian territory.

In the second main decision, the same four judges decided the ship channel should run between the four islands giving the two northern ones to the United States and the two southern ones to Canada. This decision was objected to strongly by the Canadians who refused to sign the award and issued a minority report. They felt that this was purely a political decision.⁸ Their stand convinced the Canadian people that they were the victims of Britain's foreign policy which at the time was conciliatory to the United States.

Discussion of the award in the Canadian House of Commons led Sir Wilfrid to say he "regretted that Canada was only a small but growing colony next door to a great and powerful nation who was very grasping." He also regretted that Canada did not have more control of the treaty-making power so she could better defend her own rights.⁴ This speech of October 23, 1903 may be taken as the start of a new era in Canadian nationalism in which Canada demanded more control of her foreign affairs to match her internal autonomy. Laurier did not insist on immediate control but was to utilize the problems of the future as a lever to increase the Dominion's control of her external affairs.

Canadian-American Relations in 1905-1909

Canada was intruding herself upon the American consciousness in several ways. With a population of only 6,000,000, which was less than that of the three largest American cities of New York, Chicago,

and Philadelphia, she was America's third best customer, buying some nine percent of all American exports. There were 1,000,000 Canadians in the United States out of a total of 80,000,000. In the north there were 168,684 United States farmers in the midwestern area of Canada alone, so many indeed that the provinces of Alberta and Saskatchewan were formed in 1905 extending the provincial pattern in an unbroken line from coast to coast.⁵ This was two years before the state of Oklahoma and nine years before the states of New Mexico and Arizona were formed.

Sir Wilfrid Laurier, who had been rebuffed several times by the United States in his efforts to solve some of their common problems, now felt it was up to the Republic to make the next move. He was backed by Albert Henry George Grey, Fourth Earl, who had become Governor-General in December, 1904. Earl Grey was an agreeable speaker with an acute perception of the national sensitivity of the Canadians as well as the robust side of their nature. Believing in Canada's present and future greatness, he did all he could to advance the cause of Canada both nationally and in the realm of better relations with her neighbor.⁶

In the United States, Elihu Root, one of America's greatest lawyers, was sworn in as Secretary of State on July 19, 1905. President Theodore Roosevelt said of him that "Elihu Root is the ablest man I have known in our governmental service. I will go further. He is the greatest man that has appeared in the public life of any country, in any position, on either side of the ocean, in my time."⁷ Root's record during the three years and five months he was in office bore out the truth of that statement. Among his many accomplishments he settled most of the outstanding questions between the United States and Canada and in the process aided tremendously in the advancement of Canadian sovereignty. Root, a firm believer in the creation of friendly relations with other countries, felt that minor questions as well as major ones should be settled early before passions were aroused and positions taken from which a government could not back down without loss of prestige. He pointed out in a speech welcoming Earl Grey on a visit to New York, that had Congress appropriated the money to run the Alaskan boundary earlier, the problem could have been settled amicably between the two countries before the discovery of gold caused hard feelings and made the solution difficult.⁸

While reviewing the work of the Joint High Commission, Root came across the name of Chandler P. Anderson, a young lawyer who had been the secretary of the American members of the Commission. Anderson was invited to Washington in November, 1905 to bring the

questions considered by the Commission down to date and work on the future negotiations between the United States and Canada. Anderson was a hard worker, and a logical thinker with the ability to organize a mass of facts into a coherent whole. He prepared reports on several causes of friction. When Root discussed these with the British Ambassador he proposed that the American and Canadian Governments prepare lists of all grievances. With the aid of Anderson the United States presented a letter covering all the pending Canadian-American disputes under the heading of sixteen questions.⁹ By the time Root left office in 1909 these questions were either settled or negotiations were continuing toward a satisfactory conclusion. Only four of the questions played an important role in the establishment of sovereignty for the Dominion and so are the concern of this study. They were the problems of reciprocity, fur seals in the Pacific, the North Atlantic fishery provisions, and the question of boundary waters.

The Boundary Waters Treaty

The Boundary Waters Treaty resulted from the consideration of three boundary waters problems, those of the Milk and St. Mary Rivers in Montana, Alberta and Saskatchewan; the Niagara River power and scenic problems; and the Minnesota Canal and Power Company's request to divert a portion of the Birch Lake Basin to create a waterway and power.

The St. Mary River has its source in Upper and Lower St. Mary Lakes in Glacier National Park, then flows north into Canada. The Canadians made a survey in 1894 and decided the small flow of water and the short distance the St. Mary River flows in Montana meant that no commercial undertaking to use the water was feasible south of the border. The next year a canal was built three miles north of the border to supply water to farms near Lethbridge, Alberta. The Canadians overlooked the fact that the St. Mary Lakes in Montana could be made into storage reservoirs at little expense and the water then used for irrigation projects in Montana. The Milk River rises in the foothills just east of the St. Mary and flows northeast into Canada then eastward generally parallel and about ten to fifteen miles north of the border for about one hundred and fifty miles. Then it turns south and joins the Missouri River near Havre, Montana. The summer flow is small and irregular. The Canadian Privy Council built a canal from the Milk River to Lethbridge to be used when the water was at flood stage. This worried Montana farmers who feared the loss of irrigation water. The United States proposed and the Dominion ac-

cepted the idea of regarding the two rivers as one system. It was agreed the Republic would get five hundred cubic feet per second or three quarters of the flow of the Milk River and Canada was to get the same amount of the flow of the St. Mary River from April 1 to November. This satisfied both sides that a just allocation of the water was being made. The agreement was embodied as a separate article in the Boundary Waters Treaty.¹⁰

Theodore Roosevelt was intensely interested in keeping the scenic beauty of Niagara Falls which was threatened by the diversion of water for power purposes from the Niagara River. While waiting for a treaty with Canada, the President urged Congress to pass a law for the preservation of Niagara Falls. The result of this was the Burton Bill which limited the amount of water to be taken from the American side to 15,600 cubic feet per second. Chandler P. Anderson, Root's assistant in Canadian-American matters, was made negotiator for the United States in regard to the treaty while Sir Wilfrid Laurier chose George Christie Gibbons, an outstanding lawyer of London, Ontario, who was chairman of the Canadian side of the International Waterways Commission, to be the Dominion negotiator. Gibbons was a student of international law and wrote and spoke on the subject.

The Niagara problem was to decide on how much water could be taken from the river without destroying the scenic beauty of the Falls. The International Waterways Commission suggested 18,500 cubic feet per second from the American side and 36,000 cubic feet per second from the Canadian.¹¹ Gibbons and Anderson agreed that 20,000 cubic feet per second could be diverted on the American side while the Canadian diversion was to be 36,000,¹² which was generous on the part of Canada as four-fifths of the flow was on her side. This was accepted by both sides and became another section of the treaty.

The last and important part of the treaty arose over the request of the Minnesota Canal and Power Company to divert a portion of Birch Lake Basin to create power and a waterway. The power was to be used to supply electricity to Duluth and the iron mines in the vicinity. The people living in Fort Francis, Ontario, who would be affected by the divergence of water, protested to the State Department in February, 1905. The matter was turned over to the International Waterways Commission. The Commission reported on November 16, 1906 and, under the leadership of Gibbons, the members suggested that a treaty embodying certain principles be adopted. No permanent diversion of navigable boundary streams should be allowed without the consent of a permanent commission.¹³ Gibbons was asked to draw up a treaty in conjunction with George Clinton, chairman of

the American section of the International Waterways Commission. The two men proposed a permanent commission composed of lawyers, trained in international law, who had access to engineering advice. Equal divergence of boundary waters was proposed as well as a set of principles under which the permanent commission would work. Canada was also anxious to have the commission act as a board of arbitration. When Anderson reviewed the draft treaty he felt the powers of the commission were too great and they should be limited to being an investigating body. Root submitted a treaty along these lines to the Canadians who rejected it as too limited and sent Gibbons to talk to Anderson. Gibbons boldly suggested that some of the features of his proposed treaty would change international law, such as the idea that if a project on one side of the boundary did harm on the other side it should be compensated by the party doing the harm. If such an idea was right then it should be put into practice so it could become part of international law. These discussions continued for a period of eight months. In August, 1908 Gibbons persuaded Anderson that his ideas were correct. Anderson, in a new draft treaty, separated the boundary waters into those through which the boundary passed and those tributary or merely flowing across the border. In the latter case each country would have control within its boundary subject to payments for damage to the other side. The use and diversion of the waters through which the boundary passed would be subject to a permanent commission to be called the "International Joint Commission" working under principles set up by the treaty. Gibbons added the suggestion that the commission act as a board of arbitration on the consent of both governments and this was accepted.

When the treaty was discussed in the United States Senate, Senator William Smith of Michigan added a rider stipulating that the permanent use of the Sault Ste. Marie Rapids be guaranteed to Americans. Laurier was suspicious of the rider and United States Attorney General George Wickersham gave an opinion on it which held that the rider applied only to private rights in the United States and not to Canada. The Canadian Privy Council still was not satisfied so the United States condemned all privately owned land in the area and purchased it in 1910. Then Canada also ratified the treaty.¹⁴

The treaty had an important effect in international law as it allowed citizens to appear directly before a board of international arbitration. Previously it was necessary for a government to appear on behalf of its citizens. Another step forward was the recognition that action taken on one side of the boundary which caused damage on the other side made the country causing the damage liable in a court of law.

The International Joint Commission of six members could investigate, carry out rules, act as a quasi-judicial body on boundary waters, and, most important of all, be a tribunal of international arbitration for any question that both governments want to submit to it.

Another direct result of the treaty was the establishment of the Department of External Affairs in Canada. The reports of the International Joint Commission going directly to the Canadian Government, combined with the increase in relations with other British dominions and indirectly with foreign states through the British Foreign and Colonial Offices, required a department to handle the correspondence. The department was established on June 1, 1909. The formation of this department made it easier for Canada to assume more of an independent position with respect to her external affairs.

Canada gained stature upon the signing of the treaty. For the first time she had a definite established means of carrying on international relations through the permanent International Joint Commission. Appointment of members on the commission also set a precedent. All Canadian members were appointed on the advice of the Canadian Cabinet and approved by the King without reference to the Government of Great Britain.

The North Atlantic Fisheries Arbitration

The advance in sovereignty made in the Boundary Waters Treaty was threatened by an international arbitration decision, until worked out amicably between the United States and Canada. The arbitration involved the problem of fishing in the North Atlantic off the coasts of Canada and Newfoundland. This was the oldest and most vexatious dispute between the Republic and the Dominion. The Convention of 1818 had become the basic treaty concerning fishing rights in the North Atlantic. Coasts where fish could be taken were the Magdalen Islands in the Gulf of St. Lawrence and on the coast of Labrador from Mt. Joli (directly north of the Magdalen Islands) northward indefinitely; also from the Rameau Islands on the south coast of Newfoundland (about one-third of the southern shore) to and including the entire western coast of Newfoundland. Curing or drying fish could be done by the Americans only on the uninhabited southern coast of Newfoundland from Cape Ray to the Rameau Islands and on the uninhabited coast of Labrador from Mt. Joli north. No other places were to be used for catching fish in territorial waters. Other bays or harbors could be entered only for shelter, to repair

damage, to purchase wood, or obtain water. In return for giving up all other rights, the above were granted in perpetuity.

Trouble started in 1836 when the Government of Nova Scotia passed the Hovering Act which allowed Nova Scotia patrol boats to seize fishing vessels hovering on the coasts of Nova Scotia preparing to fish or actually fishing. This act introduced the headland or territorial idea of measuring bays by a line from headland to headland irrespective of the distance between them. The American contention was that bays with openings wider than six miles could be entered to a point three miles from shore. Controversies in which vessels were seized or nets and fish destroyed were settled temporarily and then a new outburst of dissension would occur. In 1888 a *modus vivendi* or temporary arrangement was made with Canada that American vessels would pay a fee of \$1.50 a ton annually and then could fish anywhere off the Canadian coast. This ended all controversy with Canada but difficulties continued with Newfoundland who thought that by interference with American fishing she could force the American Government to admit the fish catch of Newfoundland duty free.¹⁵

Root and Sir Edward Grey, British Foreign Secretary, exchanged notes on the positions of their respective governments with the American view that the fishery servitude was an absolute law not to be interfered with by local laws; the British view being that the Americans were given the same rights as the British and were bound to obey any laws applying to the British. Agreement was reached that the only way to solve the divergent views was to present the case to the Court of International Arbitration at The Hague. Chandler P. Anderson took the American list of grievances, the British list, and a list supplied by James Bryce, British Ambassador to the United States, and from these made a draft of seven questions which became the final *compromis* or agreement as to the questions to be decided. An unusual feature of the *compromis* was that Question I listed first the views of the British—that they could regulate the hours, days, or seasons that fish could be taken on treaty coasts, means and implements used in fishing, and any other restraints of a similar character. Then the position of the United States Government was established that such regulations could not be made by Great Britain, Canada, or Newfoundland unless they were reasonable and the United States concurred in their promulgation and enforcement. This question and one which asked for the definition of a bay involved international law. The other five were concerned with the meaning of the Treaty of 1818 and the intent of the negotiating parties.¹⁶

The agent chosen for the American side was Chandler P. Anderson,

while Allen B. Aylesworth, Canadian Minister of Justice, was the British agent. The presentation of the cases was under the direction of these two men, who were responsible for compiling and organizing the written arguments and counter-arguments. Canada was represented in counsel by J. S. Ewart and the British chose Sir Charles Fitzpatrick, Chief Justice of Canada, as one of the judges.

The oral arguments of both sides were ended by Elihu Root, American senior counsel, with an outstanding presentation still considered today one of America's great legal classics.

The decision seemed to be a victory for Great Britain and so it was legally, but the United States gained the practical things she wanted. Great Britain's contention that she had the right to make local laws to control fishing was upheld with the stipulation that if the United States objected that any regulation was unreasonable it was to be submitted to an impartial commission, the "Permanent Mixed Commission", consisting of an American, a Briton, and a neutral. In the other questions, the United States could hire foreigners for crewmen but such crewmen enjoyed no benefits from the treaty. Americans were to report to customs if convenient and were not to pay light or harbor dues unless these were also collected from local citizens. Vessels could exercise both fishing or trading privileges but not concurrently. The same vessel could fish, sell its catch and then engage in trade, as a voyage meant a trip from one port to another.

The question of the definition of a bay was decided by a four to one vote, as measuring from headland to headland with the tribunal defining many of the bays in the area. The dissenting vote was by Louis Drago, former Foreign Minister of Argentina, who wanted a bay defined geographically by limiting the opening to ten miles.¹⁷

The North Atlantic Fisheries Arbitration showed the growing importance of Canada. Her Chief Justice was one of the judges, her Minister of Justice the agent for the British side, and one of her barristers was one of the counsels who presented oral arguments before the court.

Laurier objected that in the decision on the first question the sovereignty of Canada was being infringed upon by having Canadian laws declared unreasonable and abrogated by another country. Laurier and Ambassador Bryce worked out a compromise that was acceptable by having Canada issue all regulations six months before they were to go into effect. The United States would have forty-five days to object and then contended laws would go to the Permanent Mixed Commission for decision. No objection meant acceptance of the regulations. Laws found unreasonable by the Commission would not apply to

American fishermen but could apply to Canadians. Laurier agreed that this would keep intact the sovereignty of Canada with respect to making her own laws.¹⁸ This settled the oldest existing controversy between the two countries. Another question involving Canadian national rights was settled at almost the same time. This was the Bering fur seal controversy in the Pacific.

North Pacific Sealing Convention

Pelagic sealing, or the killing of seals while at sea, was first engaged in by the Canadians in 1866 under an English sea captain, Hugh McKay. Victoria, British Columbia, became the center of the pelagic sealing industry. The inroads of the pelagic sealers caused the United States to declare the Bering Sea a closed sea in 1881. Thirteen Canadian vessels were seized between 1886 and 1889. The question of the right of the United States to declare the Bering Sea a closed sea and that the Americans had exclusive rights to the seal herd since the seal was a domestic animal, were both decided against her by an International Arbitration Tribunal at Paris in 1893 which proclaimed that the United States had no right over the seals outside the ordinary three-mile limit. A significant principle for Canada was the tribunal decision that the United States had no right to banish a Canadian industry from the high seas in order to protect an industry within its jurisdiction. This was an important recognition of national right to the Canadians. The seizure of the Canadian vessels was declared illegal and an indemnity of \$473,151.26 was paid by the United States.¹⁹ Following the decision in the Bering Sea Claims, the United States forbade her citizens to engage in pelagic sealing but Canada did not do so. Dissatisfaction with the fur seal question led to a conference in 1897. General John W. Foster of the State Department proposed the complete suspension of all seal killing on land and sea for one year but Sir Wilfrid Laurier refused, as to do so would practically destroy the pelagic sealing industry. As other questions had arisen Laurier approved a joint conference on all questions in dispute.²⁰ This led directly to the Joint High Commission of 1897 which reached an impasse over the Alaska Boundary. In meetings of the Joint High Commission the United States offered a monetary compensation, a proportion of the yearly land catch, and a substantial "national consideration" elsewhere in return for the renunciation of pelagic sealing by the Dominion. Laurier thought this was referring to the Alaska Boundary and when the boundary was settled without Canada receiving any national consideration, many Canadians were incensed.

The Paris Tribunal of 1893 drew up regulations to protect the sealing industry. No seals were to be killed within sixty miles of the Pribilof Islands where the seals remained during the summer months to breed, and the area north of the thirty-fifth parallel and east of the one hundred eightieth was declared a closed season from May 1 to July 31 every year. This was not enough protection and in 1905 Secretary of State John Hay proposed the closed season be extended two months. The Canadian sealers who were engaged in sealing along the Asiatic coast during the closed season protested and the Canadian Government refused to deviate from the Paris award feeling that further concessions would destroy the industry. While the British were considering the Hay proposal, a United States Senate Committee sent a suggestion to the Secretary of Commerce and Labor that there should be a ten year suspension on all seal killing and that after the ten years the Canadian Government would receive a share of the skins. Elihu Root made a draft treaty offering Canada twenty per cent of the land catch if she would give up pelagic sealing. Laurier expressed disappointment at this offer as it involved only a share of the skins, while the Joint High Commission had offered a share of the skins, plus a monetary compensation, and some "national consideration".²¹

At this time a new element entered the pelagic sealing industry—the Japanese. They first appeared in 1901. Not bound by the limitations of the Paris award which did not apply to them, they stationed themselves outside the three-mile limit and proceeded to slaughter the seals in great numbers. The Canadians could not compete against this new element. The combined efforts of the Japanese and Canadians led President Roosevelt in his annual message to Congress in 1906 to recommend that if pelagic sealing could not be controlled through agreements with other countries that the seal herd be exterminated by the most humane manner possible.

The year 1907 saw a tremendous decrease in the number of skins taken by the Canadians who only got 5,397 or an average of 250 per boat. On top of this the Canadian ship "*Carlotta G. Fox*" was captured when it tried to hunt seals within the prohibited area. The loss of the ship and the small catch made the Victoria Sealing Company willing to sell out. Laurier reopened the sealing question in 1908 by suggesting a ten year cessation of all sealing, with compensation to be paid Canadian sealers, and adherence of Japan to the pact.

Secretary of State Philander C. Knox agreed with the Canadian request that compensation be given the sealing fleet and that repayment for this be out of Canada's share. He also agreed that a mini-

mum sum be paid if all killing was suspended unless the herd fell below one hundred thousand seals. A draft treaty embodying these ideas was accepted by the Canadian Government except that it provided for an indefinite suspension of pelagic sealing. She suggested instead, cessation for a fixed term of ten years. Knox suggested an indefinite term terminating on twelve months' notice but the Canadian Ministry felt that this suggestion would appear to be abandoning a national right and they refused. Chandler P. Anderson, who was now counselor of the State Department, recommended the term be for fifteen years and then continue until terminated by twelve months' notice. This satisfied the Canadians that they were not abandoning a national right and they accepted. This preliminary agreement which assured Canada she was not forfeiting her prerogative led the way to an agreement among the United States, Great Britain, Russia, and Japan. Agreement was reached that Canada was to receive fifteen per cent of the land kill as was Japan unless no killing was done in any year, when each was to receive \$10,000. The two countries were also advanced \$200,000 to compensate for the sealing fleet, this sum to be paid back out of the yearly income from the sale of skins. In return pelagic sealing was stopped by the agreement that none of their ports be used for that purpose and no skins be permitted in their country unless from land killing. The award was ratified in 1911.²³

The United States forbade all land killing from 1912 to 1917, and then it was resumed. The herd now numbers over 1,000,000 although it was only 150,000 in 1909. Canada's share in 1950 was over \$1,000,000.²³

The incomplete sovereignty of Canada at this time was illustrated when municipal legislation was enacted to carry out the agreement. There were no Canadian citizens as such at this time, only British subjects. Legislation forbidding Canadian citizens to engage in pelagic sealing had to be passed by the Imperial Parliament of Great Britain, although the Dominion Government refused port clearances for vessels engaged in pelagic sealing.

Agreement could have been reached with Canada much earlier had the United States negotiators, instead of regarding the Canadian stand as international blackmail, considered it from the Canadian view as a national right. They did not understand the importance of national rights to a country emerging from colonial status. The idea of sovereignty was so important to Canada that she overturned the party in power and rejected a profitable trade agreement when it seemed they would interfere with her advance toward autonomy.

Reciprocity

One of the great principles of the Canadian Liberal Party was free trade. Premier Laurier met William McKinley in 1897 just before he assumed the presidency and proposed the wiping out of all customs houses along the border. McKinley was favorable and thought material concessions might be made and a reciprocal tariff established. Instead, the Dingley Tariff Bill of 1897 raised the rates. When reciprocity proposals of the Joint High Commission did not materialize, the Liberal Party built a tariff system based on preference with Great Britain. This increased trade with the Mother country and caused the establishment of many branch factories of United States corporations in Canada. Good times characterized the Liberal era and, in spite of restrictions, trade with the Republic flourished. Over half of the Dominion's total trade was with her southern neighbor.²⁴

In 1905 Laurier appointed a commission of three to go around Canada to ascertain public opinion with respect to a new tariff. The same year the Boston *Commercial Bulletin* published a survey of two hundred thirty-eight Canadian newspapers on the tariff question. Twenty-six were for free trade or reciprocity of products with the United States. Ninety-four were indifferent and one hundred and one were opposed to any lowering of the tariff. On the basis of subscribers the ratio was twenty to one against reciprocity. The Dingley Tariff policy of 1897 seemed to have killed the reciprocity movement. The new Canadian tariff enacted in 1907 as a result of the commission's study had three schedules. The lowest one applied to Great Britain and her colonies, the highest, about one-third higher, applied to other countries. Halfway between was an intermediate tariff designed for bargaining. France immediately started to bargain for the intermediate rates and two years later was granted them.²⁵

While Canada was in the throes of tariff making the high cost of living coupled with the high rates on newsprint started newspapers in the United States agitating for a new tariff. As a result the Payne-Aldrich tariff was passed in 1909. It was the first United States tariff to have maximum and minimum rates. The minimum rates were lower than the Dingley tariff but newsprint was only reduced from \$6.00 to \$3.75 a ton while wood pulp remained at the same rate. The newspapers were therefore extremely critical of the tariff. The maximum rates were twenty-five percent of the actual value of the article added to the minimum rates and applied to those countries that discriminated against the United States in their tariffs.²⁶

The Canadians were worried that the United States would apply

the maximum rates to Canada because of the preference given Great Britain. The Americans looking on Canada as a colony, did not resent British preference but regarded the granting of intermediate rates to France as discriminatory. Meetings held by representatives of the two countries resulted in the application of intermediate rates to the United States on some forty minor articles and in return the United States agreed to apply the minimum rates to Canada. More important the meetings paved the way for reciprocity agreements on all products.

Events in the first half of 1910 in the United States helped create a favorable condition for reciprocity. The newspapers were hostile to the Republican administration because of the duty on newsprint and reciprocity would mean a possible change to support of the administration. James J. Hill, the railroad magnate, led the business men, including Andrew Carnegie and William Randolph Hearst, in a campaign for reciprocity as all of them would be aided by the free interchange of products.

North of the border conditions seemed favorable also. Laurier traveled through the western provinces in the summer of 1910, where the farmers were in favor of free trade. Elections were due in 1912 and the Liberals were in need of a new issue. Reciprocity was in harmony with the fundamental principles and supplied the need for that issue. The *London Times* summarized the situation on June 27, 1910 by stating that the farmers wanted free trade, the lumbermen were divided though in general favored reciprocity, coal miners on the west coast were favorable while those on the east coast were hostile, and the manufacturers were all opposed.

William Fielding, Minister of Finance, and William Paterson, Minister of Customs, met with Secretary of State Knox, Charles M. Pepper of the State Department's Bureau of Trade Relations, and Chandler P. Anderson on January 11, 1911 and by the twenty-first had agreed on four lists covering all products, one free, one containing identical rates, one in which the United States would levy duties, and one in which Canada would levy duties. The agreement was to be put into effect by concurrent legislation.

President Taft presented the proposals to Congress on January 26, the House passed the bill but the Senate did not act before Congress adjourned. Taft called a special session on April 4 and the bill was finally passed on July 22.

The Conservative Party of Canada under Robert Borden was slow to attack reciprocity as it was something Canada had desired for a long time. The Conservatives filibustered in Parliament and Laurier had Parliament dissolved on July 29 and appealed to the people, basing

his campaign mainly on the issue of reciprocity. Canadian manufacturers were against the measure, although Laurier had not included manufactured articles in the pact, because they feared a breach in the wall might destroy the whole wall and also that the agreement would confine labor to the production of raw materials. Bankers were opposed because of their close ties with Great Britain and free trade would necessitate new ties south of the border. Railway and transportation companies were fearful that inter-provincial traffic would be destroyed by the more geographically natural north-south flow of goods. Sir Clifford Sifton, former Liberal Minister of the Interior, and an important leader of the Liberal Party came out against the measure on the grounds that it was a threat to Canadian national resources. His main objection was that concurrent legislation was too impermanent, and a definite treaty was needed. He feared that after Canada had become adjusted to business, banking, and transportation connections under reciprocity a change in political control in the United States might result in repeal of the legislation. He was adviser to the *Canadian National League* which fostered the idea that reciprocity was a threat to Canadian nationalism. Clifton also started the League on a propaganda campaign that a vote for reciprocity was a vote against the British Empire. The Conservatives campaigned using these ideas and stressing that reciprocity was the first step to annexation with the United States. Professor Goldwin Smith, of Oxford and Cornell Universities, had been the chief voice for annexation in Canada from 1880 on. During hard times the movement gained force but during good times lost ground. By 1896 Smith was almost alone in his advocacy of it and with his death in 1910 the idea became virtually non-existent in Canada. Smith proposed a commercial union which would lead to political union. This was the argument used by the Conservatives who were aided in their campaign by Americans south of the border.

President Taft in his message to Congress declared that Canada had come to the parting of the ways; either she must be permanently isolated by a high tariff wall or become a commercial friend. This was construed in Canada to mean the Dominion must either join the United States or remain part of the Empire. Speaker Champ Clark of the House of Representatives struck one of the most telling blows with the statement he hoped to see the day when the American flag would float over every inch of British North American possessions to the North Pole. United States Senators claimed annexation was the logical result of reciprocity while Representatives joined them with similar sentiments. The Hearst press printed that eventually Canada would

come into the union. Taft's praise of Hearst gave ammunition to the anti-reciprocity forces in the Dominion.

In the election the Conservatives using the slogan "No truck or trade with the Yankees" won a majority of forty-five seats, defeating eight Liberal Ministers including Fielding and Paterson. The popular vote was 669,000 to 625,000. The defeat of reciprocity gave the Canadians a chance to give vent to pent up feelings against the United States and enabled them to assert their developing autonomy, thus ending all idea of annexation.²⁷ Reciprocity made the Canadians more conscious than ever that the goal they desired was to become a sovereign nation, and they were willing to sacrifice commercial advantages if such sacrifice meant the possible gain of political independence.

Traditionally the Conservatives advocated closer ties to Great Britain. Events after 1911 caused an assumption of greater autonomy by the Canadians but the impetus of the United States was not the major factor it was under the Liberals. American influence in Canada increased during and after World War I due to world economic conditions. London could no longer supply money for loans and Canadian bankers turned to New York. In 1915 over \$143,000,000 was borrowed from American financiers, about three times the normal amount, and since then Canada has been part of the dollar bloc rather than the sterling bloc.²⁸

The Halibut Treaty

Dissatisfaction in the Dominions because of their war sacrifices caused British Prime Minister Lloyd George to grant them a voice in the direction of the World War. Sir Robert Borden further requested and obtained Canadian and other dominion representation at the Peace Conference with the same rights as smaller nations. At the same time each dominion was given representation in the British Empire delegation. Canada as a signatory of the treaty was thereby a member of the League of Nations.²⁹ Borden obtained a statement from President Woodrow Wilson and the other leaders of the great powers that a member of the self-governing dominions could be a member of the Council of the League. Wilson, in a conference with United States Senators of the Foreign Relations Committee, said the five British dominions had a separate vote in the League Assembly but on British Empire matters they had only one combined vote. Thus, Wilson's view was that the dominions were not sovereign but part of the Empire.³⁰ A Senate amendment to the Peace Treaty, insisting the

United States have six votes in the League Assembly to balance Britain's six votes, convinced the Canadians that their nearest neighbor did not regard them as autonomous. The Conservative Party was working out a solution of independence within the framework of the Empire and was satisfied with its accomplishments. The Liberals wanted more of a demonstration that Canada was independent. The Liberals returned to power in 1921. William Lyon Mackenzie King, the new leader of the Liberal Party, awaited a favorable opportunity to display Canada's autonomy. This came in 1923 with a dispute again over a problem in regard to fishing.

Overfishing caused by the need of food during the first World War had resulted in a decline in fish caught. An international fish conference between the United States and Canada was held in 1918. Out of its recommendations came two treaties—one on salmon, which was not ratified until 1937, and one on halibut. The treaty on halibut included port privileges to Canadian fishing vessels but opposition to this privilege caused the treaty to be withdrawn in 1919.

An investigation by Secretary of Commerce Herbert Hoover in 1922 convinced him that over ninety-five percent of the halibut fishermen on both sides of the border were in favor of a treaty, as the decline in the catch was alarming them.³¹ Another treaty was drawn up on January 16, 1923 which was acceptable to Canada. On the same day a cable was sent to the Minister for the Colonies in Great Britain asking that full powers as a plenipotentiary to sign the treaty be granted to Ernest Lapointe, Canadian Minister of Marine and Fisheries. Lapointe was Premier King's closest associate.

Sir Auckland Geddes, British Ambassador at Washington, inquired if Lapointe would sign with him, as had been the usual custom. Up to this time dominion negotiators would make a treaty and then the British Ambassador would sign in association with a representative of the dominion concerned. Sir Auckland was informed that only Lapointe would sign the treaty as full powers had been mailed to him. The British Ambassador tried to prevent any change in the procedure but was finally informed by the British Minister for Foreign Affairs that, as the treaty concerned only Canada and the United States, Lapointe would sign alone. Secretary of State Charles Evans Hughes signed for the United States and Ernest Lapointe for Canada.³²

The provisions of the treaty were simple and provided for a closed season on halibut fishing from November 16 to February 15, described what was to be done to violators, and set up a commission of four to study the halibut. These provisions revealed another evidence of sovereignty on the part of Canada in that for the first time she as-

sumed control of her own citizens outside the borders of her country. Previously, when a dominion citizen left dominion shores, he became subject to the laws of Great Britain. Now for the first time a dominion retained control of her subjects after they reached the open sea.

The United States Senate did not understand the situation created by the treaty and Senator Jones of Washington had a reservation added "That none of the nationals and inhabitants and vessels and boats of any other part of Great Britain shall engage in halibut fishing contrary to the provisions of this treaty." This made sense only if by Great Britain was meant the British Empire. This was the meaning which Senator Jones construed the term to imply. If the resolution stood, then Canada would have to ask Great Britain as well as the other dominions to ratify the treaty also. Canada proposed the treaty be forgotten and concurrent legislation used instead, for the United States Senate by its action was bolstering the British Empire rather than aiding Canada's drive toward independence. The United States State Department proposed Canada ratify the treaty without reservation and then pass legislation to prove she meant to keep all other fishing vessels out during the closed season. In turn the President would re-submit the treaty without reservation but warned that the Senate did not always do as the executive wanted. If the Senate refused then concurrent legislation could be passed.⁸³

When the Canadian Parliament did as requested, King and Lapointe declared that there was reason to believe that the United States Senate would accept it without reservation. The *New York Times* acidly remarked "What has reason to do with Senate Reservations? Water isn't half as necessary to a halibut as a reservation to our best senatorial minds."⁸⁴ However, when Canada passed the enabling legislation, the Senate approved ratification without any reservation.

This was the first time a dominion had negotiated and signed a treaty by herself. It was a great step forward in achieving independence since making and signing a treaty is one of the most important evidences of nationhood. Its assumption proclaimed Canada's status to the world, and more especially to the United States.

The position Canada took was legalized in the Imperial Conference of 1923, held in Great Britain, in which it was agreed that if a treaty concerned a dominion alone it would sign alone; if it affected parts of the Empire those parts would sign; and if it affected the entire Empire the British Ambassador would sign.

Canada now needed only a few more evidences of autonomy before achieving complete nationhood. The next and most important step

was to enter permanently into relations with other countries. This next step was also taken in conjunction with the United States.

The Canadian Minister

The first definite move towards independent representation was the appointment of a War Mission to the United States in 1918 by Sir Robert Borden. This was, in effect if not in form, a diplomatic mission. It was charged with promoting trade and business relations but was also engaged in the diplomatic task of coördinating war efforts.⁸⁵ Its work proved so valuable that it was continued on a temporary basis until 1921. After this time the secretary of the Mission, Marchant M. Mahoney, remained in Washington as "agent" for the Department of External Affairs, until the Legation was established.

Borden, who was the creator of the War Mission, proposed that a Canadian Minister to Washington, appointed and responsible to the Canadian Government, be created by the British Government. He would be part of the British Embassy and in the absence of the British Ambassador would be in charge of the Embassy. The British Government agreed and formal announcement was made simultaneously in the British and Canadian Parliaments on May 20, 1920. Mackenzie King, Liberal leader, objected to the idea of the Minister being part of the British Embassy. He claimed this either involved Canada in British affairs or made the minister only a chief clerk. The exact position of such a minister was puzzling to the United States State Department. A suggestion was made that the American Consul General in Ottawa be given the title "Diplomatic Agent".

Borden resigned two months later because of ill health without having made an appointment. Arthur Meighen who succeeded him as Prime Minister was interested in domestic problems and not the relations of Canada with other countries. Again no appointment was made.

The Liberals returned to power in 1921 but they needed the aid of the Progressives to control the House of Commons while the Conservatives had control of the Canadian Senate. Mackenzie King made no appointment during this period for he wanted a minister who would be independent with no formal connection with the British Embassy.

The election of 1926 resulted in another victory for King and his followers and he now felt strong enough to appoint a Minister to the United States with an independent Canadian Legation. Vincent Massey, the present Governor-General of Canada, was appointed on

November 10, 1926. Speculation existed as to what move the United States would make and in February, 1927 the announcement was made that the Republic would in turn appoint a Minister to Canada.⁸⁶

Premier King attended the Imperial Conference of 1926 determined to secure recognition of dominion autonomy and to clarify the position of the Governor-General. Autonomy was recognized by the famous Balfour Report that Great Britain and the dominions were "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any respect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations." The position of the Governor-General was defined as the representative of the Crown with the same position in relation to the administration of public affairs as the King occupied in Great Britain.⁸⁷

Massey presented his credentials on February 18, 1927 and established the Canadian Legation of four members on the same day. William Phillips, who had been Ambassador to Belgium, presented his credentials in Ottawa on June 2, and established the United States Legation on July 1, 1927, the Diamond Jubilee of the Canadian Dominion. This was the first time a United States Ambassador was appointed to a ministerial position without loss of prestige.

Canada had achieved complete autonomy without rebellion or violence within sixty years after her founding. The establishment of a direct channel for foreign relations completed the work of sovereignty except for one more expression of nationhood which required a war to exercise.

Completion of Sovereignty

The Diamond Jubilee year held another honor for Canada. She was appointed to one of the non-permanent seats in the League of Nations Council. This appointment showed that the smaller nations of the League recognized Canada as one of the leaders of their group. The honor came in part because of the ability of Senator Raoul Dandurand, leader of the Liberal Party in the Senate, who had been elected chairman of the League Assembly for the year 1925. His able work as League leader focused attention on Canada.

The Balfour Report, which was the British recognition of dominion autonomy, was embodied into law by the Statute of Westminster of December 11, 1931, in which the British Parliament formally renounced all future law-making for the dominions except at the specific request of a dominion. Since then the British Parliament has enacted

four amendments for Canada to the British North America Act which is the fundamental law of Canada. The next to last amendment added Newfoundland as the tenth province and completed the geographical limits of the Dominion as planned by the Fathers of Confederation in 1867. The last amendment allows the Canadian Parliament to amend the Act in all federal matters. Today the only parts of the British North America Act requiring use of the British Parliament are those sections dealing with combined federal and provincial fields. Meetings have been held between federal and provincial prime ministers but no satisfactory method for amendment in this respect has been found.

The British Privy Council remained the court of last resort for some time after 1931. In 1933 the Canadian Supreme Court became the court of final appeal in all criminal cases. A similar step was legislated for all civil cases in 1949. The Supreme Court of Canada is now the last court of appeals in all Canadian cases.

Independence of the dominions required a change in the formula used in crowning the King of Great Britain. Since 1931 the King or Queen of Great Britain has been specifically crowned King or Queen of Canada. In the same year the Governor-General who is the representative of the Crown, was chosen for the first time solely by the Canadian Government and the King. This was but fifteen years after the Duke of Devonshire's appointment as Governor-General, when the Canadian Prime Minister was not even consulted. In February, 1952, Vincent Massey became Canada's Governor-General. He is the first native born Canadian to occupy this position.

The foreign relations of Canada have expanded tremendously. The appointment of a Minister to the United States was followed in 1928 by one to France and one to Japan. Today there are twenty-three Embassies (in 1943 many Ministers were made Ambassadors), eight legations, and seven offices of high commissioners. The Department of External Affairs has kept pace and grown from three officials of senior rank in 1928 to a total of 1,400 employees in 1953. Lester B. Pearson head of the Department of External Affairs, was elected President of the United Nations Assembly in 1952. This selection is evidence that Canada is one of the leaders in the organization.

The ultimate test of sovereignty in foreign affairs is that of the ability to declare war or peace. This right was exercised by Canada in the second World War when she declared war on Germany on September 10, 1939, one week after Great Britain and France. She is proud that she declared war on Japan on December 7, 1941 one day before the United States and Great Britain. The war supplied oppor-

tunities for cooperation between Canada and the United States. A Permanent Board of Defense was established by President Franklin D. Roosevelt and Premier King by the Ogdensburg Agreement of August 17, 1940. This was followed by the Hyde Park Agreement of April 10, 1941 which unified the war production efforts of the two countries.³⁰

Canada, because of her ties with the Commonwealth and her immense foreign trade (over eight billion dollars for fourteen million people in 1951, third largest trading country in the world in 1952), has always been more world minded in her outlook than the United States and therefore she has been taking an active role in world organizations. Her interest and energy in promoting the welfare of the free nations has made her one of the present day world leaders. The United States can take pride in the fact that her aid and influence played a major role in helping Canada achieve nationhood.

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